

NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF  
1995

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FEBRUARY 21, 1995.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources, submitted  
the following

R E P O R T

[To accompany H.R. 622]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 622) to implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 622 is to improve the conservation and management of high seas fisheries in the Northwest Atlantic by authorizing U.S. membership in the Northwest Atlantic by authorizing U.S. membership in the Northwest Atlantic Fisheries Organization.

BACKGROUND AND NEED FOR LEGISLATION

Straddling fishery stocks are those fish stocks which travel between the Exclusive Economic Zones (EEZs) of two or more countries or between EEZs and the high seas. While nations have the authority to manage and conserve fisheries within their own EEZs, there is no single authority for high seas fisheries management. As a result, many high seas fisheries (many of which are straddling stocks from adjoining EEZs) can become overfished, negatively impacting the fisheries within the EEZ from which the stocks originate.

In an effort to facilitate management and conservation of high seas resources, a number of regional, multilateral fishery management regimes have been negotiated. One such international body is the Northwest Atlantic Fisheries Organization (NAFO), established by convention in 1978 to coordinate and oversee the management of certain fisheries existing beyond the EEZs of the United States, Greenland, and Canada in the Northwest Atlantic Ocean.

From 1950 to 1976, prior to the establishment of NAFO, the United States was a founding member of, and a participant in, the International Commission for Northwest Atlantic Fisheries (ICNAF). ICNAF managed the regions's fisheries, established a statistical database, and promoted scientific research. When nations extended their jurisdictions over natural resources to 200 miles, and the U.S. implemented the Magnuson Fishery Conservation and Management Act (MFCMA) in 1976, the U.S. withdrew from ICNAF due to perceived conflicts between the MFCMA and ICNAF management authorities.

The U.S. soon recognized the need to preserve the goals of ICNAF in international waters and sought to negotiate a new agreement that would continue the cooperative management and conservation of Northwest Atlantic fisheries found on the high seas. This effort resulted in the establishment of NAFO. NAFO's area of jurisdiction starts beyond the 200-mile EEZs and extends westward from the southern tip of Greenland, eastward from the North American coastline, and northward of Cape Hatteras, North Carolina.

At least seventeen nations are members of NAFO, which manages all fisheries in its defined area of jurisdiction with the exception of salmon, swordfish, tuna, and marlin which are managed by other international organizations.

While the United States participated in the NAFO negotiations, signed the original convention, and the Senate gave its advice and consent in 1983, the U.S. has not acceded to the Convention, pending the adoption of implementing legislation. Several factors account for this last of action. First, the Administration could not agree on which Federal agency should represent the U.S. at NAFO and in the selection of U.S. Commissioners. Second, U.S. fishermen had little interest in NAFO fisheries given the renewed interest in fisheries within the U.S. EEZ resulting from the passage of the MFCMA. Finally, U.S. fishermen were concerned that NAFO would seek to manage other fisheries, an issue that is no longer relevant.

During the 1980's, the U.S. became more interested in NAFO. In 1984, the International Court of Justice resolved a maritime boundary dispute between the U.S. and Canada, resulting in the establishment of the Hague Line. Following this decision, some U.S. vessels were found to be operating in the NAFO regulatory area. In addition, the U.S. became more active in negotiations to seek international cooperation in other high seas areas on issues such as pollock management and driftnets.

As the U.S. continues to seek greater cooperation in high seas fishery management to improve the conservation and management of these resources throughout the world's oceans, ignoring NAFO is inconsistent and undermines our negotiating credibility. While U.S. fishermen did not fish in the NAFO regulatory area for several

years, the return of U.S. fishermen to the area in the past two years has been viewed by NAFO members as a flagrant violation of this international fishery agreement. Fishing by U.S. vessels is particularly troubling given that NAFO members are currently abiding by a moratorium for many fisheries in the area that was instituted by NAFO to address the decline of these stocks.

U.S. membership in NAFO would provide opportunities for scientific research on fisheries of concern to U.S. fishermen and provide the U.S. with an opportunity to negotiate a quota for U.S. fishermen in the NAFO regulatory area. More importantly, it would demonstrate the U.S. commitment to international conservation and management of fishery resources throughout the high seas.

#### COMMITTEE ACTION

H.R. 622 was introduced on January 20, 1995, by Congressman Gerry Studds. The bill was referred to the Committee on Resources, and within the Committee, to the Subcommittee on Fisheries, Wildlife and Oceans.

On January 25, 1995, the Subcommittee on Fisheries, Wildlife and Oceans held a hearing on a variety of international fisheries bills pending before the Congress. Witnesses included Ambassador David Colson, Deputy Assistant Secretary for Ocean and Fisheries Affairs, United States Department of State; and Mr. Rolland Schmitten, Assistant Administrator for Fisheries, National Marine Fisheries Service.

Both Mr. Colson and Mr. Schmitten testified in support of the bill. In particular, Mr. Colson noted that "it is deeply important if we are to use commercial fisheries on a sustainable basis that any fishermen who fishes outside his national zone fishes pursuant to the rules established through the relevant conservation and management organization for the region."

On February 1, 1995, the Subcommittee on Fisheries, Wildlife and Oceans considered H.R. 622 in markup session and ordered it reported favorably, without amendment, to the full Committee on Resources by voice vote. On February 8, 1995, the Committee on Resources met to consider H.R. 622. There were no amendments and the Committee ordered the bill reported to the House of Representatives by voice vote, with a quorum present.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section provides that the Act may be cited as the "Northwest Atlantic Fisheries Convention Act of 1995".

##### *Section 2. Representation of United States under convention*

Section 2 authorizes the Secretary of Commerce to appoint Commissioners to the General Council and Fisheries Commission and Representatives to the Scientific Council. These Commissioners and Representatives must coordinate their functions with the Regional Fishery Management Councils established under the MFCMA and consent with the Committee established in Section 8. Of the three Commissioners appointed, no more than one may be an official of the Federal Government and at least one must be a

representative of the Commercial fishing industry. This section also details the requirements for appointments, terms, alternate commissioners and representatives, and functions of the individuals.

*Section 3. Requests for scientific advice*

The section requires that the Representatives of the Scientific Council consult with the appropriate Regional Fishery Management Councils and the Commissioners on any request to consider any particular questions concerning the scientific basis for the management and conservation of fisheries under the NAFO Convention.

*Section 4. Authorities of Secretary of State with respect to convention*

This section authorizes the Secretary of State to act for the United States in matters related to the operations of NAFO, including receiving and transmitting reports and communications of the Organization, agreeing or objecting to proposals and amendments of the Fisheries Commission or amendments to the Convention, and giving notice of intent not to be bound by measures of the Fisheries Commission.

*Section 5. Interagency cooperation*

This section authorizes the Secretary of Commerce to arrange for cooperation with other Federal agencies, States, the New England Fishery Management Council, and other private institutions and organizations to carry out the provisions of the Convention.

*Section 6. Rulemaking*

Section 6 authorizes the Secretary of Commerce to promulgate regulations to carry out the purposes of the Convention.

*Section 7. Prohibited acts and penalties*

This section details the prohibited acts the penalties, the enforcement authority, and the court jurisdiction applicable under this Act.

*Section 8. Consultative committee*

This section establishes a consultative committee to advise the Secretaries of Commerce and State on fisheries management issues in the northwest Atlantic related to the Convention. The Committee shall include representatives from the New England Fishery Management Council, the states, the Atlantic States Marine Fisheries Commission, and representatives of the fishing and processing industry.

*Section 9. Administrative matters*

This section describes the compensation measures that apply under this Act.

*Section 10. Definitions*

This section defines the relevant terms used in this Act.

*Section 11. Authorization of appropriations*

This section authorizes an annual appropriation of \$500,000 for each of Fiscal Years 1995, 1996, 1997, and 1998, for carrying out the purposes of this Act.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(l)(3) of rule XI of the Rules of the House of Representatives and clause 2(b)(1) of rule X of the Rules of the house of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 622 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7 of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 622. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Fisheries, Wildlife and Oceans held hearings on January 25, 1995, on H.R. 622 and the oversight findings and recommendations of the Committee are reflected in this report.

2. With respect to the requirement of clause 2(1)(#)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 622.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 622 from the Director of the Congressional Budget Office.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 15, 1995.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
 U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 622, the Northwest Atlantic Fisheries Convention Act of 1995, as ordered reported by the House Committee on Resources on February 8, 1995. Because enactment of H.R. 622 could affect direct spending and receipts, pay-as-you-go procedures would apply; however, CBO estimates that any change in direct spending and receipts would be negligible.

The bill would allow the United States to become a fully participating member of the Northwest Atlantic Fisheries Organization (NAFO), an international body established to oversee certain fisheries existing beyond the 200-mile territorial seas of the United States, Canada, and Greenland in the Northwest Atlantic Ocean. It also would authorize the Secretary of Commerce to appoint commissioners to the General Council and Fisheries Commission to appoint commissioners to the General Council and Fisheries Commission and representatives to the Scientific Council. The bill also would authorize the Secretary of State to act for the United States in matters related to the operations of NAFO, including arranging for the cooperation of federal agencies, states and other interested parties. The Secretaries of State and Commerce would be authorized to establish a consultative committee to advise them on issues related to the Convention.

H.R. 622 prohibits any commissioner, representative, consultative committee member, or other adviser from being compensated for his or her service. The Secretary of State may pay their travel and other expenses, subject to availability of appropriations. The bill would authorize appropriations of \$500,000 per year for fiscal years 1995 through 1998 for carrying out its purposes, including the contribution to NAFO.

Finally, H.R. 622 specifies prohibited acts and establishes civil and criminal penalties under the Magnuson Fishery Conservation and Management Act. Any civil and criminal fines levied under these provisions would increase receipts to the federal government. Criminal fines would be deposited in the Crime Victims fund and would be spent in the following year. CBO does not expect this additional revenue or direct spending to be significant.

H.R. 622 would result in no cost to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Robertson, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

CHANGES IN EXISTING LAW

If enacted, H.R. 622 would make no changes in existing law.

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 622.

